

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3072 OF 2024

Malay Sheetal Vimlesh Thakur and Anr.

.. Applicants

Versus

State of Maharashtra and Anr.

.. Respondents

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- Mr. Lokesh Zade, Advocate for Applicants.
- Mr. Mayur S. Sonavane, APP for Respondent No.1 – State of Maharashtra.
- Mr. Shambu Jha a/w. Mr. Suraj Pandey, Advocates for Respondent No.2.
- Mr. Karade, API, Kashimira Police Station.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 10, 2025

P.C.:

1. Heard Mr. Zade, learned Advocate for Applicants; Mr. Sonavane, learned APP for Respondent No.1 – State of Maharashtra and Mr. Jha, learned Advocate for Respondent No.2.

2. Application is filed for seeking Anticipatory Bail. Though a statement was made at an earlier point of time on 22.11.2024 that Applicant will not be arrested until the next time, it is stated by learned APP that thereafter statement under Section 164 of Criminal Procedure Code, 1973 (for short '**Cr.P.C.**') has been recorded. However date of recording is 06.09.2024 which is recorded prior to 22.11.2024. On the issue of merits the First Information Report (for short '**FIR**') is at page No.18. Applicants are family members of Complainant who are indicted under Sections 498-A read with Sections 376(2)(f), 406, 323,

504, 506 and 34 of Indian Penal Code, 1860 (for short 'IPC'). Reading of FIR states that Applicant was married to Complainant on 25.04.2024 in Village – Sitamarhi, Bihar.

3. *Prima facie*, in the FIR, Complainant has stated that substantial amount of gold and cash was not only given to her but also to Applicant No.1 by her parents. In that view of the matter, maintainability of complaint under Section 498A of IPC is not justifiable when the entire FIR is read together. What happened thereafter is more crucial. Complainant and Applicant co-habited together for more than 37 days and that too in Bangalore and not in Mumbai. This is stated by Complainant herself in the FIR. That is the admitted position.

4. What happens thereafter on 09.06.2024 according to Complainant is that they came to stay at Mira Road, Mumbai and on 11.06.2024 Complainant left the house alongwith her father / family members. What is stated in the FIR is about incidents which happened on 25.05.2024 and 26.05.2024 in Bangalore and not in Mira Road, Mumbai. In so far as these two incidents are concerned, *prima facie* on the face of record when the FIR is seen, Complainant has waited for more than one month to lodge the FIR thereafter. Her statement under Section 164 of Cr.P.C. is recorded within four days wherein she also states that attempt was made to kill her by keeping

the gas stove on at her home in Mira Road by Accused No.4. The entire spate of incidents delineated hereinabove which has triggered the Complainant to leave the house is stated at running page No.20 of the Application which is part of FIR.

5. I have also heard Mr. Jha for the Complainant. He would submit that the issue being serious and allegations made against Applicants are such that they should not be granted Anticipatory Bail. He has drawn my attention to the twin incidents which are stated in the FIR being the reason for opposing the Application for grant of Anticipatory Bail. Reading of the record clearly shows that there were issues between the Complainant and Applicant with respect to their marital life. *Prima facie*, it is also seen that when the brother of Complainant visited her house on 10.06.2024 and she narrated the entire events namely the two incidents to him, despite that no steps were taken either by the Complainant or her brother or her family members to lodge the FIR until September – 2024. This period of one month wait is crucial and militates against the Complainant's case.

6. Report dated 10.01.2025 is taken on record as submitted by Mr. Sonavane.

7. In view of the above observations and findings, I find that Applicants deserve to be granted Anticipatory Bail, however subject to the following terms and conditions:-

- (i) In the event of the arrest, Applicants be enlarged on bail on executing P.R. Bond in the sum of Rs.10,000/- each with one or two sureties in the like amount;
- (ii) Applicants shall report to the Investigating Officer at concerned Police Station, as and when called for by the Investigating Officer for investigation;
- (iii) Applicants shall furnish particulars of their addresses and mobile numbers to the Investigating Officer within one week from today;
- (iv) Applicants shall not misuse his liberty in any manner or influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence; and
- (v) It is directed that Applicants shall extend complete cooperation in the investigation of the instant case.

- 8.** Parties to act on a server copy of this order.
- 9.** Anticipatory Bail Application stands allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]